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COMMITTEE ON THE RIGHTS OF THE CHILD

Eleventh session

SUMMARY RECORD OF THE 264th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 10 January 1996, at 3 p.m.

Chairperson: Mrs. EUFEMIO

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CONSIDERATION OF REPORTS OF STATES PARTIES (continued)

INITIAL REPORT OF MONGOLIA

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GE.96-10160 (E)

The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 4) (continued)

Initial report of Mongolia (CRC/C/3/Add.32; list of issues CRC/C.11/WP.2)

At the invitation of the Chairperson, Mr. Yumjav (Ambassador, Permanent Representative of Mongolia at Geneva), Mrs. Bolormaa (Director, National Centre for Children), Mr. Sukhbaatar (Counsellor of Mission), Mrs. Tungalag (Ministry of Justice), Mr. Tumur (Member of the State Great Kural, Chairman of the Parliamentary Working Group on the Draft Law on the Rights of the Child) and Mr. Samdandovj (Member of the National Council for Children) (Mongolia) took places at the Committee table.

1. The CHAIRPERSON invited the delegation of Mongolia to introduce the initial report of Mongolia (CRC/C/3/Add.32). She noted that the Government of Mongolia had provided the Committee with written replies to questions in the list of issues (CRC/C.11/WP.2). The replies had been distributed at the session without a document symbol.

2. Mr. SAMDANDOVJ (Mongolia) said that, in addition to the written replies that had been sent, the delegation of Mongolia had brought two more documents that had been made available to the Secretariat, one dealing with the distribution of medicines and medical equipment (mentioned in question 19 of the list of issues) and the other referring to the measures taken by the Government of Mongolia to improve child nutrition (mentioned in question 20 of the list of issues). He would be happy to give oral replies to any questions that the members of the Committee might wish to ask in that regard.

3. Mr. YUMJAV (Mongolia) said that it had been two years since his country's initial report had been submitted. Major changes had taken place during those years. Thanks to the Government's resolute moves towards a market economy and financial and material assistance from the international community, the Mongolian economy was showing its first signs of recovery and stability. Political reforms and the democratization of social life were taking place in a climate of political stability. The Government was making the most of such favourable conditions to grapple with major social issues such as poverty and the difficult situation facing vulnerable sectors of the population.

4. With regard to implementation of the Convention, far-reaching measures had been taken to bring Mongolian legislation into line with the Convention; and to introduce new laws governing various aspects of economic and social life affecting children's interests in the areas of social protection and education, for example. The recently adopted Civil Code, Penal Code and Code of Criminal Procedure included the relevant provisions of the Convention. A bill on the rights of the child had also been submitted to Parliament.

5. He drew attention to two events of importance for the rights of the child: the National Assembly on "child-development-protection" had been held in April 1995 and had led to the adoption of national principles on children's protection and development; and national machinery had been established to implement those principles. A kind of social consensus had been reached on children's issues. More recently, in November 1995, the National Council for

Children, the United Nations Children's Fund (UNICEF) and the Mongolian Centre for Development, a Mongolian non-governmental organization (NGO), had organized a national seminar on the role of NGOs in implementing the Convention on the Rights of the Child. The seminar had laid down the basic principles which should enable NGOs to use a common strategy to promote the implementation of the Convention.

6. With regard to the practical measures adopted during the period covered by Mongolia's initial report, he drew attention to the formidable difficulties that had arisen from the transition to a new system, including the lack of financial resources; poor methodological knowledge and a lack of the experience needed to compile and assess information on the situation of children in different circumstances; and the shortage of persons specializing in the implementation of legislation, such as jurists and police and prison staff with the necessary training in children's rights. Mongolia really needed technical assistance in that area and would be grateful if the members of the Committee would take that into consideration in drafting their recommendations.

7. The outcome of the Committee's consideration of the initial report of Mongolia and its recommendations would be publicized in Mongolia. The publicity had already started, in fact, since the delegation of Mongolia had given an interview to newspaper and radio and television journalists before leaving the capital.

8. He assured the Committee that the Government of Mongolia was resolute in its determination to fulfil its obligations under international instruments and to do its utmost to protect the best interests of the child. He and his colleagues would apply all their knowledge and experience to ensure that the consideration of the report was as fruitful as possible.

9. The CHAIRPERSON invited the delegation of Mongolia to provide additional information on the "General measures of implementation" referred to in questions 1 to 7 of the list of issues (CRC/C.11/WP.2).

10. Mrs. BOLORMAA (Mongolia) said that, over the past year, measures had been taken in Mongolia to help children. In reply to question 5 of the list of issues, she said that a large number of public events had been organized to raise awareness of the Convention throughout the country: a travelling exhibition had been mounted in all Mongolian schools, posters concerned with children's rights had been hung in schools and competitions for the best radio and television programmes dealing with children's problems had been set up. A television programme entitled "Take care, there are children present" had been appreciated by all those involved with children.

11. In response to question 6 of the list of issues, she said that, since 1994, courses and seminars relating to the Convention had been organized for the benefit of people working with children. Extracurricular activities on the Convention took place in all schools. Given the size of Mongolia however, it was difficult to reach all the children in rural areas to make them aware of their rights. In December 1994, the National Council for Children and the United Nations Children's Fund had for the first time organized in Mongolia a seminar for those in charge of correctional

educational establishments. A programme of instruction on children's rights in secondary schools was in course of preparation. A children's rights centre was to open the following year; it would provide legal experts and lawyers with the specialized training necessary to deal with children's problems and 28 legal experts were involved in setting the project up. There were also plans to establish a consultation centre on children's issues. In addition, a hotline already existed on which children could ring social workers, direct and without payment, and ask for help. Lastly, steps had been taken for children to undergo a periodic medical examination and to ensure that they actually attended school.

12. Mr. HAMMARBERG noted that, despite the difficulties experienced by Mongolia, particularly the transition to a market economy, the high rate of unemployment - which particularly affected women and children - and the fact that 25 per cent of the population lived below the poverty line, many initiatives had been taken, in the Parliament and elsewhere, to help children, relevant radio programmes had been broadcast, a 24-hour telephone line had been made available to the public and training programmes on children's rights had been organized for the benefit of various professional groups. He wished to know how far the Mongolian Government had been able, over and above such measures, to maintain a global perspective on children's problems and to what extent public opinion was aware of such problems. He also welcomed the presence in the Mongolian delegation of a member of the Parliament who would be in a position to provide any necessary clarification of child-related legislation. It was essential that the country's authorities should support all the initiatives mentioned in order to ensure success and that they should aim for a satisfactory redistribution of national resources.

13. Mrs. SANTOS PAIS welcomed the fact that, despite the difficulties faced by Mongolia, the Government had shown its determination to improve the situation of children. In that context, a new Constitution incorporating provisions relating to the rights of the child had been adopted. Like Mr. Hammarberg, she was struck by the problems caused by the transition to democracy, the move to a market economy and the opening up to the outside world that Mongolia had had to face. There were many difficulties: inflation, the impact of growing poverty and unemployment and of the fall in living standards, particularly for women and children, and the deterioration in the public's access to health care. She wished to know what had been done to help children in such circumstances. Children suffered in silence and the economic indicators did not reflect that. She noted the Mongolian Government's desire for transparency and hoped that the dialogue between the delegation and the Committee would find an echo in Mongolia.

14. In relation to legislation, she welcomed the presence in the delegation of a member of the Parliament, who was the obvious person to explain the legislative reforms that had taken place. According to the report contained in document CERD/C/3/Add.32, the international conventions to which Mongolia had acceded had become an integral part of its legislation. Not all the provisions of the Convention, however, had been incorporated into national legislation. Moreover, some laws had been ratified before the adoption of the Convention and could therefore not have been inspired by it. Turning to the draft law on the rights of the child, of which mention had been made, she requested some clarification on the progress made and wondered whether the

provisions of the Convention had been taken into account. She also wished to know whether the Convention could be directly invoked in court in cases of the violation of a child's rights. Lastly, she asked whether there was an independent mechanism - an ombudsperson or a committee of experts - that was responsible for monitoring children's rights and, if not, whether the Government intended to establish such a mechanism.

15. Mrs. KARP said she also welcomed the fact that the Mongolian Government was attempting to implement the Convention despite the difficulties facing the country. She would like the delegation to provide more information on the way the Convention was applied. How did the National Centre for Children and the various non-governmental and national structures cooperate with each other? How did the various bodies share out the work? With regard to child allowances, she wished to know what proportion of the national budget they represented.

16. Mrs. BADRAN, said that, while she was aware of the difficulties experienced by Mongolia, she wished to know how the situation of children had developed over the past two years. According to the report, the problems seemed to be growing ever greater. According to the supplementary information supplied by the Mongolian Government, some funds allocated to children did not reach them and were used to meet other expenses. She thought that the system of using such allowances should be reviewed. With regard to international assistance, care should be taken that international organizations providing such assistance should act in a sustainable manner. Like Mrs. Karp, she did not understand clearly how the various bodies dealing with children worked together. She wondered what links were maintained between them.

17. Mr. TUMUR (Mongolia) said that, as a Deputy in the Great Khural, he was proud of the results that had been achieved in the last five years, since the start of democratization. The members of the Parliament had prepared draft legislation relating to children and certain features of the bill were to be reflected in the new Civil Code and Code of Civil Procedure. The bill was to be examined by the Legal Standing Committee and by the Social Affairs Committee and it was hoped that it would be considered during the spring session, from March to June 1996. As had already been pointed out, the question of children was of great importance for Mongolia and the Parliament had organized a National Assembly on the Rights of the Child in which the President and the Prime Minister had participated. In drafting the bill to which he had referred, the deputies had sought to incorporate in it all the provisions of the Convention. Thus, the text established the principles of equality and non-discrimination and provided that children could not be separated from their family, that their correspondence should be protected and that the State would ensure the provision for them of free education and medical care. The deputies had also sought to define the Government's responsibilities with regard to children living in difficult circumstances, whether abandoned or in prison, in order to ensure that they had the benefit of all the rights enjoyed by other children. The bill also provided that the Government should assume responsibility for orphans and that, upon marriage, the latter would receive Government assistance and be entitled to social housing. Some of those provisions had already been implemented and a National

Council for Children had been established, with the Prime Minister as its President. The Council was required to bring all matters relating to children to the attention of the Government and the Ministers had to prepare reports on measures taken for the benefit of children and to make recommendations.

18. Replying to Mrs. Santos País, he said that the appropriations for education accounted for 20 per cent of the national budget. As Mr. Yumjav had pointed out, a number of laws on social questions had been adopted, in particular one on social security. He was confident that the bill he had mentioned would be adopted in 1996. Although there was at present no ombudsman to monitor children's rights, the guardianship authorities and other organizations played an important supervisory role. A State supervisory body had been established in 1995 and one of its functions was to ensure that the budget allocation for children was used in an appropriate manner. Admittedly, all was not as well as it could be and additional resources were needed. That was why Mongolia also relied on international assistance.

19. Mrs. BOLORMAA (Mongolia) said that, until 1990, Mongolia had had a centralized economic system and a political system based on a single party with a socialist-communist ideology. In 1990, the situation had changed. A multiparty system had been established and Mongolia had acceded to the Convention on the Rights of the Child. Until 1995, however, there had been no national consensus on the manner of tackling the problem of children living in difficult conditions, as each political party offered a different solution. In 1995, the National Assembly for the Development and Protection of Children had led to the development of a national consensus centred on the provisions of the Convention and the President of the Republic had proposed that 1995 should be the Year for Children. Mongolia was now trying to encourage an economic, political and juridical mobilization in favour of children. The objectives set for 1995 under the National Programme of Action for the Development of Children had been achieved: the infant mortality rate, the mortality rate for children under five years of age and the maternal mortality rate had declined.

20. Mr. SAMDANDOVJ (Mongolia) said that Mongolia was a small country where non-governmental organizations were only beginning to develop and had as yet little influence on society. That was one of the reasons why the National Assembly for the Development and Protection of Children, after having considered means of mobilizing society, institutions, the business community and the financial sector for the benefit of children, had recommended that a National Council for Children should be set up. That Council, headed by the Prime Minister, was itself a monitoring instrument, its membership including representatives of the State, of governmental organizations, of non-governmental organizations and of the private sector. It coordinated the action taken by the State, public and private bodies, economic entities and individuals to improve the situation of children. The National Centre for Children was a public body attached to the Ministry of Demographic Policy and Labour. It dealt with all matters connected with health, education and social welfare, among others. The National Foundation for Children had also been set up on the recommendation of the National Assembly for the Development and Protection of Children. Its purpose was to mobilize financial resources at the local, national and international levels for the benefit of children and to coordinate the use made of those resources. It had indirect Government

support which enabled it to carry out certain projects for improving the welfare of children and which encouraged the payment of contributions. Mongolia thus had three bodies, the Foundation, the Council and the Centre for Children, which were working continuously for the benefit of children.

21. Mrs. TUNGALAG (Mongolia) said that children could apply to the courts if their rights were violated. The Constitution provided that, where the provisions of national legislation and those of the Convention differed, the courts could decide on the basis of the provisions of the Convention.

22. Mr. HAMMARBERG said he hoped that the principle of giving primary consideration to the best interests of the child would be included in the bill on protection of the rights of the child that was to be submitted to the Parliament, as it was of vital importance. With reference to the actual drafting of the bill, he hoped that the legislature might use as a basis the relevant laws already adopted in many countries and that it might also have the benefit of technical assistance provided by the Centre for Human Rights. With regard to the setting up of machinery for promoting and protecting the rights of the child, it was necessary to see that there was effective coordination among the various ministries and that this was supported by unfailing political will, good cooperation with non-governmental organizations and an independent monitoring system. In that connection, the establishment of judicial machinery was not sufficient; non-governmental organizations and the ombudsman also had an important role to play. Referring to article 4 of the Convention, he said that, in the allocation of resources, it was important to ensure that children did not suffer because of the country's economic difficulties. Regarding international assistance, he wished to know whether Mongolia, in its negotiations with international institutions such as the World Bank, made it clearly known that it assigned high priority to the situation of children and that the providers of international aid should take account of its development programmes in that area.

23. Mrs. SANTOS PAIS said she would like to have further information about the measures taken or envisaged by the authorities to protect children against the adverse effects of the policy of transition to a market economy, privatization and decentralization. Referring to paragraph 15 of the report contained in document CRC/C/3/Add.32 on the reduction in public spending on health, education and social protection, she stressed how important it was for the Government to ensure that children did not suffer from its policies and to safeguard the right to education, health and social protection. While welcoming the setting up, as part of the decentralization policy, of local councils to monitor the Convention's implementation, she considered it important that the councils should work in close collaboration with the bodies which took decisions at the central level and coordinated activities and that they should have the requisite resources to carry out their tasks. She would appreciate details in that regard and would like to know what sort of links existed between the local councils and the National Council for Children. Noting that the Convention had been incorporated into national legislation, she wondered why the Mongolian authorities had deemed it necessary to enact a law incorporating the provisions of the Convention. In fact, she wondered whether that law properly reflected everything that appeared in the Convention.

24. Mrs. KARP said that she wished to know exactly what role the National Assembly for the Development and Protection of Children played, whether it was permanent or solely an advisory body and whether it had a higher status than the National Council for Children. She also wished to know what portion of the budget was allocated to the local authorities. She wondered, too, whether the mobilization of funds for a foundation aimed at financing certain activities might be liable to induce the State to reduce that part of the budget earmarked for children. Furthermore, she wished to know what bearing the bill on the protection of the rights of the child might have in relation to other legal instruments such as the Convention, which placed specific obligations on the State. She shared the concern expressed by Mrs. Santos País that the legislators might have omitted some of the Convention's provisions in drafting the bill. She noted, for example, that article 15 of the bill relating to the rights of deprived persons failed to mention the right to education. She stressed the need for great care, in drafting such a bill, so as to omit nothing, since any omission could give rise to misinterpretations.

25. Mr. SAMDANDOVJ (Mongolia) said that the Mongolian authorities had decided to set up a mechanism to reflect the consensus which society had managed to arrive at with regard to the protection of the child. The National Council for Children had thus been established by a decision of the Parliament. Its main purpose was to facilitate the implementation of national policy and international conventions relating to the child. It was also mandated to draw up broad guidelines on the protection and development of the child, as well as to foster initiatives and coordinate activities of public and private organizations, business entities and individuals with a view to enhancing society's awareness of protection of the advancement of children. The National Council for Children was chaired by the Prime Minister and composed of eminent personalities from public and religious bodies and in business, as well as representatives of social, cultural and scientific bodies.

26. The National Centre for Children, which itself was actually a government body, had become the Council's executive organ. The National Foundation for Children was a private foundation set up for the purpose of mobilizing funds in order to improve the situation of children; it had the Government's approval but was in no way connected with it.

27. Mr. TUMUR (Mongolia) said that, in the first place, the national budget consisted of the central budget, which was subject to parliamentary approval, and local budgets subject to approval by the local authorities. There was also a provision in the Constitution to the effect that international treaties were, upon ratification, directly applicable on the same footing as national legislation. In that regard, the bill on the protection of the rights of the child was an exception, in that it had been drafted with a view to implementing provisions which went even beyond those of the Convention on the Rights of the Child, while taking account of the country's characteristics. For example, one provision of the bill provided that the law would apply equally to the children of alien citizens and of expatriates residing in Mongolia, whereas the Convention contained no such provision.

28. Moreover, although it was true that the right to education was not mentioned in the bill on the protection of the rights of the child, it should be stressed that the Parliament had recently adopted four laws on education which provided, inter alia, that free secondary education would be guaranteed to all the country's children.

29. Mrs. BOLORMAA (Mongolia) said that the proportions of the national budget earmarked for the social sector, education and health were 20 per cent, 20 per cent and 18 per cent, respectively. In addition, 16 per cent of international assistance was allocated to the social sector. In that regard, mention might be made of the assistance provided by UNICEF to health and vaccination programmes, as well as to the programmes aimed at assisting children in difficult circumstances. Furthermore, the National Centre for Children received financial assistance from the national budget and local centres received assistance from local budgets. The basic linkage for the system as a whole was provided by child-care professionals in the field. Their work was financed by local communities, which dealt with all the costs of local centres.

30. Mrs. SANTOS PAIS said that, although national legislation might, in some cases, be an interesting complement to the Convention, the authorities of a country should not, whatever commendable intentions they might have had at the outset, adopt solutions that were not as good as those proposed by the Convention. She also pointed out that, although the Convention did not explicitly mention the case of children of aliens and expatriates, article 2 referred to all children within a State party's jurisdiction. She also stressed the need for efficient communication networks between local and central authorities. With regard to the implementation of the National Programme of Action for the Development of Children in the 1990s, it appeared from paragraph 34 of the report contained in document CRC/C/3/Add.32 that the Mongolian authorities were counting mainly on UNICEF to finance the Programme. Since it would seem, however, that UNICEF might not be prepared to do so in the near future, there was a risk of setting up structures which might not be able to continue to operate owing to the lack of resources.

31. Mrs. BADRAN said she was astonished at the size of the section relating to heating, electricity and water supplies under the various budget headings. It would seem, for example, that 60 per cent of the "education" heading of the national budget was allocated to heating costs.

32. Mr. SAMDANDOVJ (Mongolia) recalled that Mongolia was a very cold country, where the temperature was regularly -45° C, and that the winter lasted from September to May. It was true that the heating installations and power stations were obsolete and therefore costly, but that was the actual situation in the country.

33. The CHAIRPERSON said that the study of the questions relating to general implementation measures was thus concluded and invited the members of the Committee to put questions to the Mongolian delegation on the definition of the child (question 8 of the list of issues CRC/C.11/WP.2).

34. Mrs. KARP said that she wished to know at what age a child could testify in court. When a child had been subjected to sexual violence, for example, was his testimony accepted and assistance provided to enable him to testify?

35. Mrs. TUNGALAG (Mongolia) said that, according to the Penal Code, a child could testify from the age of 14 years, but must be accompanied by his lawyer, legal representative or parents. The same rule applied to civil cases.

36. Mrs. SANTOS PAIS said she welcomed the fact that children could apply to the courts when one of their rights had been violated. However, if a child had to appear in court accompanied by a lawyer and lacked the means to pay him, could he benefit from free assistance? If a child had been a victim of violence committed by its parents, moreover, he might face considerable difficulties if he could appear only in the company of his parents or other adults.

37. Mr. TUMUR (Mongolia) pointed out that, according to a provision of the new Constitution, no person was obliged to testify against a member of his own family. That being so, when a child was a victim of violence within his family, he could appear in court accompanied by one of his teachers or another adult who assumed the functions of legal representative. If a child had to appear in court accompanied by a lawyer and lacked material means to pay for the latter's services, he received free assistance. In practice, when a court had before it a case of sexual violence committed against a child, it ordered the proceedings to be held in camera, classified as confidential all the documents relating to the case and imposed a duty of discretion on all persons taking part in the proceedings.

The meeting rose at 6 p.m.